

§ 1308.26

obtain a decision on the matter appealed. Oral argument will not be heard on such a motion unless otherwise directed. The stay order will normally set a date certain by which the decision of the Contracting Officer will be rendered. Such date shall take into account the factors mentioned in § 1308.13(c), the length of time the matter has already been pending before the Contracting Officer, and the need for prompt and expeditious action on appeals.

§ 1308.26 Appeals.

(a) An appeal to the Board from a Contracting Officer's decision under § 1308.12 shall be initiated within 90 days from the Contractor's receipt of the Contracting Officer's decision and in the manner set forth in the disputes clause.

(b) An appeal from the Contracting Officer's failure to render a timely decision shall be taken within the time period provided by § 1308.17. The notice of appeal shall be in the form and filed in the manner specified in the disputes clause, but shall state that it is an appeal under § 1308.17, and shall include a copy of the claim which was submitted for decision.

§ 1308.27 Appeal files.

(a) Notices of appeal shall be filed as provided in the disputes clause, and shall be promptly transmitted by TVA to the Chairman.

(b) Following transmittal of the notice of appeal, TVA shall assemble and transmit to the Hearing Officer and the Contractor an appeal file consisting of:

(1) The Contracting Officer's decision, if any, from which the appeal is taken;

(2) The contract and pertinent amendments, specifications, plans, and drawings (a list of the documents submitted may be provided Contractor in lieu of copies);

(3) The claim;

(4) Any other matter pertinent to the appeal submitted to or considered by the Contracting Officer for reaching a decision.

(c) The appeal file shall be submitted within 30 days. Within 30 days after receipt of a copy, the Contractor may submit to the Hearing Officer and

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TVA's General Counsel any documents within the scope of paragraph (b) of this section which are not included in the appeal file but which the Contractor believes are pertinent to the appeal. Such documents are considered a part of the appeal file.

Subpart D—Prehearing and Hearing Procedures

§ 1308.31 Filing and service.

(a) All documents required to be served shall be served on TVA and Contractor and filed with the Board, except subpoenas.

(b) A request under § 1308.15 shall be directed to the General Manager, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902, and shall be transmitted to the Chairman.

(c) All other documents required to be filed shall be directed to the Hearing Officer assigned to the matter.

(d) Service on the opposing party may be made personally or by mail. The copy presented for filing shall bear an appropriate certificate or acknowledgment of service.

§ 1308.32 Prehearing procedures.

(a) Unless otherwise provided in this part, prehearing procedures, including discovery, shall be conducted in accordance with Rules 6, 7(b), 16, 26, 28-37, and 56 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case.

(b) The term *court* as used in those Rules shall be deemed to mean "Hearing Officer"; the term *plaintiff* shall be deemed to mean "Contractor"; the term *defendant* shall be deemed to mean "TVA"; and the term *action* shall be deemed to mean the pending appeal.

(c) Discovery subpoenas are subject to Subpart E.

(d) The party giving notice of a deposition is responsible for securing a reporter.

(e) No appeal of counterclaim may be dismissed except by order of the Hearing Officer. The Hearing Officer may order at any time, with or without a motion by a party, that an appeal or counterclaim, or any part thereof, be